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U.S. DISTRICT COURT
DISTRICT OF MARYLAND

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Department of Justice

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November 21, 2014

Joseph J. Gigliotti, Esquire
5707 East West Highway
Riverdale, MD 20737

Re: *United States v. Kamran Ashfaq Malik*
Criminal No. JFM-14-0075

Dear Mr. Gigliotti:

This letter, together with the Sealed Supplement, confirms the plea agreement which has been offered to the Defendant by the United States Attorney's Office for the District of Maryland ("this Office"). If the Defendant accepts this offer, please have him execute it in the spaces provided below. If this offer has not been accepted by December 3, 2014, it will be deemed withdrawn. The terms of the agreement are as follows:

Offense of Conviction

1. The Defendant agrees to plead guilty to Count Two of the Indictment now pending against him, which charges him with unlawful export of defense articles in violation of the Arms Export Control Act, 22 U.S.C. § 2778. The Defendant admits that he is, in fact, guilty of that offense and will so advise the Court.

Elements of the Offense

2. The elements of the offense to which the Defendant has agreed to plead guilty, and which this Office would prove if the case went to trial, are as follows:

(a) First, that the defendant exported, or caused the exportation of, defense articles from the United States to Pakistan;

(b) Second, that the necessary license or authorization from the Department of State, Directorate of Defense Trade Controls, was not obtained prior to the export; and

(c) Third, that the defendant acted knowingly and willfully, that is voluntarily and intentionally in violation of a known legal duty.

Penalties

3. The maximum sentence provided by statute for the offense to which the Defendant is pleading guilty is as follows: twenty (20) years imprisonment, three (3) years of supervised release, and a \$1,000,000 fine. In addition, the Defendant must pay \$100 as a special assessment pursuant to 18 U.S.C. § 3013, which will be due and should be paid at or before the time of sentencing. This Court may also order him to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.¹ If a fine or restitution is imposed, it shall be payable immediately, unless, pursuant to 18 U.S.C. § 3572(d), the Court orders otherwise. The Defendant understands that if he serves a term of imprisonment, is released on supervised release, and then violates the conditions of his supervised release, his supervised release could be revoked - even on the last day of the term - and the Defendant could be returned to custody to serve another period of incarceration and a new term of supervised release. The Defendant understands that the Bureau of Prisons has sole discretion in designating the institution at which the Defendant will serve any term of imprisonment imposed.

Waiver of Rights

4. The Defendant understands that by entering into this agreement, he surrenders certain rights as outlined below:

(a) If the Defendant had persisted in his plea of not guilty, he would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the Defendant, this Office, and the Court all agreed.

(b) If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the Defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified, and would have the opportunity to strike a certain number of jurors peremptorily. All twelve jurors would have to agree unanimously before the Defendant could be found guilty of any count. The jury would be instructed that the Defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

(c) If the Defendant went to trial, the government would have the burden of proving the Defendant guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the government's witnesses. The Defendant would not have to present any defense witnesses or evidence whatsoever. If the Defendant wanted to call witnesses in his defense, however, he would have the subpoena power of the Court to compel the witnesses to attend.

(d) The Defendant would have the right to testify in his own defense if he so chose, and he would have the right to refuse to testify. If he chose not to testify, the Court could

¹ Pursuant to 18 U.S.C. § 3612, if the Court imposes a fine in excess of \$2,500 that remains unpaid 15 days after it is imposed, the Defendant shall be charged interest on that fine, unless the Court modifies the interest payment in accordance with 18 U.S.C. § 3612(f)(3).

instruct the jury that they could not draw any adverse inference from his decision not to testify.

(e) If the Defendant were found guilty after a trial, he would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges against him. By pleading guilty, the Defendant knowingly gives up the right to appeal the verdict and the Court's decisions.

(f) By pleading guilty, the Defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the Defendant understands that he may have to answer the Court's questions both about the rights he is giving up and about the facts of his case. Any statements the Defendant makes during such a hearing would not be admissible against him during a trial except in a criminal proceeding for perjury or false statement.

(g) If the Court accepts the Defendant's plea of guilty, there will be no further trial or proceeding of any kind, and the Court will find him guilty.

(h) By pleading guilty, the Defendant will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status. The Defendant recognizes that if he is not a citizen of the United States, pleading guilty may have consequences with respect to his immigration status. Under federal law, conviction for a broad range of crimes can lead to adverse immigration consequences, including automatic removal from the United States. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including his attorney or the Court, can predict with certainty the effect of a conviction on immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any potential immigration consequences.

Advisory Sentencing Guidelines Apply

5. The Defendant understands that the Court will determine a sentencing guidelines range for this case (henceforth the "advisory guidelines range") pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991 through 998. The Defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take into account the advisory guidelines range in establishing a reasonable sentence.

Factual and Advisory Guidelines Stipulation

6. This Office and the Defendant understand, agree and stipulate to the Statement of Facts set forth in Attachment A hereto which this Office would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors:

(a) The parties stipulate and agree that U.S.S.G. § 2M5.2 is the applicable sentencing guideline in this matter. The government takes the position that the base offense level is level 26, pursuant to § 2M5.2(a)(1), to account for the unlawful export of two non-fully

automatic rifles and various related parts and accessories, including bolt carriers, .223 caliber 10 round magazines, and numerous 100 round dual-drum magazines. The defendant reserves his right to argue for a base offense level of 14, pursuant to § 2M5.2(a)(2). The government will oppose application of the lesser offense level.

(b) This Office does not oppose a two-level reduction in the Defendant's adjusted offense level, based upon the Defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. This Office agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the Defendant's timely notification of his intention to plead guilty. This Office may oppose *any* adjustment for acceptance of responsibility if the Defendant: (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about his involvement in the offense; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw his plea of guilty.

7. The Defendant understands that there is no agreement as to his criminal history or criminal history category, and that his criminal history could alter his offense level if he is a career offender or if the instant offense was a part of a pattern of criminal conduct from which he derived a substantial portion of his income.

8. This Office and the Defendant agree that with respect to the calculation of the advisory guidelines range, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines will be raised or are in dispute other than the base offense level as set forth in paragraph 6(a). The Defendant reserves his right to bring to the Court's attention for consideration in sentencing the factors contained in 18 U.S.C. § 3553(a), and will notify the Court, the United States Probation Officer and government counsel at least ten days in advance of sentencing of the factors he intends to raise.

Forfeiture of Firearms and Related Accessories

9. The Defendant understands and agrees that as a result of his guilty plea, he will not be permitted to own, possess, or use a firearm. The Defendant agrees that he forfeits all right, title, and interest in the following firearms and related accessories.

(a) Smith & Wesson Magnum 500 handgun, 50 caliber, S/N CHS0698, reported stolen by the Defendant and recovered by the Harford County Sheriff's Office in December 2012;

(b) Twenty-eight (28) .223 caliber rifle bolt carriers seized on March 6, 2014, from a package the Defendant attempted to ship, via FedEx, from Parcel Express in Bowie, Maryland, to Pakistan.

(c) The below-listed items seized by federal agents, pursuant to Court order, from the Defendant's residence in Upper Marlboro, Maryland:

1. Colt M4 carbine, 5.56mm caliber, S/N LE277834;
2. Taurus P-22 handgun, .22 caliber, S/N AXB28795;
3. Colt M1-911 military handgun, S/N 1850903;
4. Beretta PX4 handgun, S/N PX186DV;
5. Glock 34 handgun, Gen 4, S/N WLN139;
6. Glock 17 handgun, S/N NCW326;
7. Miscellaneous ammunition.

(d) Fifteen (15) 100 round dual drum magazines relinquished by the Defendant to federal agents on July 9, 2014.

Obligations of the United States Attorney's Office

10. At the time of sentencing, this Office will recommend a sentence within the resulting advisory guidelines range and will move to dismiss any open counts against the Defendant.

11. The parties reserve the right to bring to the Court's attention at the time of sentencing, and the Court will be entitled to consider, all relevant information concerning the Defendant's background, character and conduct, including the conduct that is the subject of the counts of the Indictment that this Office has agreed to dismiss at sentencing.

Waiver of Appeal

12. In exchange for the concessions made by this Office and the Defendant in this plea agreement, this Office and the Defendant waive their rights to appeal as follows:

(a) The Defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or otherwise, to appeal the Defendant's conviction;

(b) The Defendant and this Office knowingly waive all right, pursuant to 18 U.S.C. § 3742 or otherwise, to appeal whatever sentence is imposed (including the right to appeal any issues that relate to the establishment of the advisory guidelines range, the determination of the defendant's criminal history, the weighing of the sentencing factors, and the decision whether to impose and the calculation of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised release), except as follows: (i) the Defendant reserves the right to appeal any term of imprisonment to the extent that it exceeds 57 months' imprisonment; and (ii) this Office reserves the right to appeal any term of imprisonment to the extent that it is below 37 months' imprisonment.

(c) Nothing in this agreement shall be construed to prevent the Defendant or this Office from invoking the provisions of Federal Rule of Criminal Procedure 35(a), or from appealing from any decision thereunder, should a sentence be imposed that resulted from

arithmetical, technical, or other clear error.

(d) The Defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from this Office or any investigating agency.

Obstruction or Other Violations of Law

13. The Defendant agrees that he will not commit any offense in violation of federal, state or local law between the date of this agreement and his sentencing in this case. In the event that the Defendant (i) engages in conduct after the date of this agreement which would justify a finding of obstruction of justice under U.S.S.G. § 3C1.1, or (ii) fails to accept personal responsibility for his conduct by failing to acknowledge his guilt to the probation officer who prepares the Presentence Report, or (iii) commits any offense in violation of federal, state or local law, then this Office will be relieved of its obligations to the Defendant as reflected in this agreement. Specifically, this Office will be free to argue sentencing guidelines factors other than those stipulated in this agreement, and it will also be free to make sentencing recommendations other than those set out in this agreement. As with any alleged breach of this agreement, this Office will bear the burden of convincing the Court of the Defendant's obstructive or unlawful behavior and/or failure to acknowledge personal responsibility by a preponderance of the evidence. The Defendant acknowledges that he may not withdraw his guilty plea because this Office is relieved of its obligations under the agreement pursuant to this paragraph.

Court Not a Party

14. The Defendant expressly understands that the Court is not a party to this agreement. In the federal system, the sentence to be imposed is within the sole discretion of the Court. In particular, the Defendant understands that neither the United States Probation Office nor the Court is bound by the stipulation set forth above, and that the Court will, with the aid of the Presentence Report, determine the facts relevant to sentencing. The Defendant understands that the Court cannot rely exclusively upon the stipulation in ascertaining the factors relevant to the determination of sentence. Rather, in determining the factual basis for the sentence, the Court will consider the stipulation, together with the results of the presentence investigation, and any other relevant information. The Defendant understands that the Court is under no obligation to accept this Office's recommendations, and the Court has the power to impose a sentence up to and including the statutory maximum stated above. The Defendant understands that if the Court ascertains factors different from those contained in the stipulation set forth above, or if the Court should impose any sentence up to the maximum established by statute, the Defendant cannot, for that reason alone, withdraw his guilty plea, and will remain bound to fulfill all of his obligations under this agreement. The Defendant understands that neither the prosecutor, his counsel, nor the Court can make a binding prediction, promise, or representation as to what guidelines range or sentence the Defendant will receive. The Defendant agrees that no one has made such a binding prediction or promise.

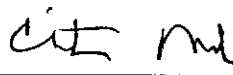
Entire Agreement

15. This letter supersedes any prior understandings, promises, or conditions between this Office and the Defendant and, together with the Sealed Supplement, constitutes the complete plea agreement in this case. The Defendant acknowledges that there are no other agreements, promises, undertakings or understandings between the Defendant and this Office other than those set forth in this letter and the Sealed Supplement and none will be entered into unless in writing and signed by all parties.

If the Defendant fully accepts each and every term and condition of this agreement, please sign and have the Defendant sign the original and return it to me promptly.

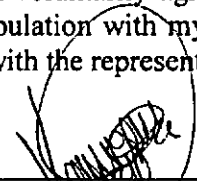
Very truly yours,

Rod J. Rosenstein
United States Attorney

By: 
Christine Manuelian
Assistant United States Attorney
National Security Section

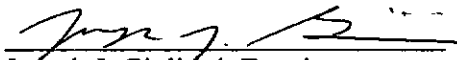
I have read this agreement, including the Sealed Supplement, and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

2/24/2015
Date


Kamran Ashraf Malik

I am Mr. Malik's attorney. I have carefully reviewed every part of this agreement, including the Sealed Supplement with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

2/24/15
Date


Joseph J. Gigliotti, Esquire
Counsel for Defendant

ATTACHMENT A - STIPULATED FACTS
United States v. Kamran Ashfaq Malik

The parties agree that if this matter had proceeded to trial, the government would have proven the following facts beyond a reasonable doubt. The parties also agree that the following facts do not encompass all facts that would have been proven had this matter proceeded to trial.

On November 28, 2012, a U.S.-origin parcel in transit to Pakistan was intercepted at the Dubai International Airport in Dubai, UAE, after it was found to contain an array of AR-15 style semi-automatic rifle components. These components included two .223 caliber rifle lower receivers, two .223 caliber rifle bolt carriers, two .223 caliber 10 round magazines, an Aimpoint optical gun sight, a TLR-2 LED rail mounted flashlight with laser, a collapsible butt stock, and a fore grip magazine holder. According to the associated shipping documents, the parcel had been shipped from a Parcel Express store in Bowie, Maryland. The listed shipper of record was falsely identified as "Charlie Jones" of 4510 Lords Landing Road, Upper Marlboro, Maryland. The shipper's listed telephone number was subsequently determined to be subscribed to Waleed AFTAB at 4500 Lords Landing Road, Apt. 404, Upper Marlboro, who, in fact, was the shipper of the package and who had falsely manifested the package to contain "plastic cup holders" and "door springs." AFTAB had shipped the package at the direction of his employer Kamran Ashfaq MALIK. AFTAB worked at a pizza shop owned by MALIK in Upper Marlboro, Maryland, where they also resided together at an apartment at 4500 Lords Landing Road.

One of the lower receivers in the confiscated package was identified by its serial number as belonging to a Colt M-4 semi-automatic rifle purchased by MALIK on July 29, 2012, from a federally licensed firearms dealer in Lorton, Virginia. The second confiscated lower receiver was identified by its serial number as belonging to a Rock River Arms LAR-15 semi-automatic rifle originally purchased from a Maryland firearms dealer in August 2007 and subsequently reported as stolen. Both lower receivers, as well as the .223 caliber magazines and bolt carriers found in the confiscated package are considered defense articles under Category I of the U.S. Munitions List and require a validated export license from the Directorate of Defense Trade Controls (DDTC), Department of State, for export to Pakistan. The Aimpoint optical gun sight and the TLR-2 LED rail mounted flashlight with laser found in the confiscated package are identified on the Commerce Control List under ECCN 0A987 and require a validated export license from the Bureau of Industry and Security, Department of Commerce, for export to Pakistan. Neither MALIK nor AFTAB, or any of their associates, applied for, or obtained, licenses for shipment of the export-controlled items to Pakistan.

Between September and October 2012, MALIK purchased, or caused to be purchased, approximately 48 AR-15 100 round dual drum magazines from various firearms and related accessories dealers. In order to take advantage of the lack of magazine capacity restrictions in Virginia, some of the purchases were made by MALIK under the name, Virginia address and bank account of his associate Amir ARIF, a/k/a Arif Amir. In other instances Malik provided a false commercial shipping address in Springfield, Virginia. Between October and November 2012, MALIK shipped these items, or caused them to be shipped, to Pakistan from the Parcel Express store in Bowie. In order to evade export restrictions and avoid law enforcement detection, the items were falsely manifested as "lids," "plastic holders," "empty bags," "thread

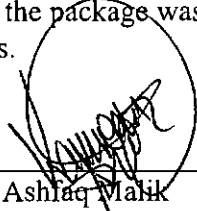
holders," "metal chain," "plastic cup holders," "plastic rope holders," or "door springs." Fictitious identifying information was also provided, to include fictitious return addresses on Lords Landing Road and fictitious names for the shipper. The phone numbers provided for the shipper were cell phone numbers used by either MALIK, AFTAB, or Sajid MAHMOOD, a/k/a Shawn Chudhary, another of MALIK's pizza shop employees. In some instances, the packages were shipped to Mujtaba Nutt at an address in the same area as MALIK's residence in Lahore, Pakistan. In those instances where MALIK did not complete the shipment, he directed AFTAB or MAHMOOD to complete the shipment with false identifying information.

On March 7, 2013, MALIK's laptop computer and iPhone were subjected to a border search upon his arrival into the United States from Pakistan. Various photos of AR-15 style semi-automatic rifles and magazines were found on MALIK's phone that, according to the GPS info on the phone, were taken at locations at or near 4500 Lords Landing Road, as well as at or near the location of MALIK's residence in Pakistan. A number of the photos showed rifles bearing an optical gun sight and rail mounted flashlight with laser similar to parts confiscated in the Dubai package. A text message was also found on MALIK's phone that referenced the FedEx tracking number of the shipment detained in Dubai and originated from MAHMOOD's cell phone. MALIK's laptop contained a "profile" that listed ARIF's name and Virginia address along with MALIK's email address and cell phone number.

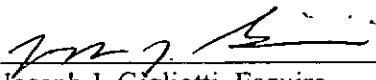
On or about March 6, 2014, MALIK dropped off a package at the Parcel Express store for shipment to Pakistan. MALIK provided a false return address and indicated that the item be shipped to "Mujtaba Akram" in Lahore, Pakistan. The package was falsely identified by MALIK as containing "screw holders and metal screws." Upon interception by Immigration and Customs Enforcement agents, the package was found to contain 28 .223 caliber bolt carriers regulated for export to Pakistan. MALIK never sought or obtained a validated export license from the DDTC to export these items to Pakistan.

MALIK received numerous export warnings regarding the export restrictions on firearms and related accessories. A notice of these export restrictions were contained on the firearms transaction records for various weapons purchased by MALIK between 2012 and 2013, including the purchase of the Colt M-4 whose lower receiver was confiscated in Dubai. In addition, the Parcel Express invoice receipts for the various shipments to Pakistan completed by MALIK, or AFTAB and MAHMOOD acting at his direction, contained an export notice and signature block for the shipper certifying that the identifying information for the package was accurate and that it was being shipped in accordance with U.S. export regulations.

SO STIPULATED:



Kamran Ashfaq Malik
Defendant



Joseph J. Gigliotti, Esquire
Counsel for the Defendant